

§ 33.13

promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate government entity.

(g) The Director shall accept and investigate all complete complaints which are timely filed, are within the Department's jurisdiction, and state an allegation(s) which, if true, would violate section 504 or its implementing regulations.

(1) Where the Director determines that the complaint will be investigated, he or she will notify the complainant(s) and the appropriate Department official(s).

(2) Such notification will advise the parties that a determination on the merits of the complaint will be issued within 180 days of the date of notification unless the matter is resolved informally prior to that time.

(3) If, during the course of the investigation, the Department official states that he or she believes that resolution of the complaint would require a fundamental alteration of the program or undue financial and administrative burdens, the complaint will proceed in accordance with §§ 33.9(b) and 33.11(e) of this part, as applicable.

(h) At any time prior to the issuance of the determination the parties to the complaint may resolve the complaint on an informal basis. For this purpose, the Director shall furnish, to the extent permitted by law, a copy of the investigative file to the complainant and the appropriate Department official. If the complaint is resolved, the terms of the agreement shall be reduced to writing and entered as part of the official file by the Deputy Assistant Secretary for Administration and Management (Deputy ASAM).

(i) If informal resolution is not achieved, the Deputy ASAM shall issue a determination on the merits which notifies the parties to the complaint of the results of the investigation and includes—

(1) The findings of fact and conclusions of law;

(2) A remedy and/or corrective action, as appropriate, for each violation found; and

(3) A notice of the right to appeal to the Assistant Secretary for Administration and Management (ASAM).

29 CFR Subtitle A (7–1–01 Edition)

(j)(1) An appeal of the Deputy ASAM's determination may be filed with the ASAM by any party to the complaint. Such appeal must be filed within 30 days of receipt of the determination. The ASAM may extend this time for good cause.

(2) Timely appeals shall be accepted and processed by the ASAM. The ASAM's determination shall be based upon the written record which may include, but is not limited to, the determination made by the Deputy ASAM, the investigative file, and any other materials submitted by the parties pursuant to a request from the ASAM.

(k) The ASAM shall notify all parties of his or her determination on the appeal within 90 days of the receipt of the appeal. The ASAM's determination represents the final administrative decision by the Department.

(l) The time limits cited in paragraphs (g)(2) and (k) of this section may be extended with the permission of the Assistant Attorney General.

(m) The Department may delegate its authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated.

(n) The Director shall respond to requests by the Architectural and Transportation Barriers Compliance Board for information on the status of any complaint alleging that buildings that are subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), or section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), are not readily accessible and usable to individuals with handicaps.

[52 FR 11606, Apr. 9, 1987; 52 FR 23967, June 26, 1987]

§ 33.13 Intimidation and retaliation prohibited.

No person may discharge, intimidate, retaliate, threaten, coerce or otherwise discriminate against any person because such person has filed a complaint, furnished information, assisted or participated in any manner in an investigation, review, hearing or any other activity related to the administration of, or exercise of authority

Office of the Secretary of Labor

§ 34.1

under, or privilege secured by section 504 and the regulations in this part.

PART 34—IMPLEMENTATION OF THE NONDISCRIMINATION AND EQUAL OPPORTUNITY REQUIREMENTS OF THE JOB TRAINING PARTNERSHIP ACT OF 1982, AS AMENDED (JTPA)

Subpart A—General Provisions

Sec.

- 34.1 Purpose; application.
- 34.2 Definitions.
- 34.3 Discrimination prohibited.
- 34.4 Specific discriminatory actions prohibited on the ground of race, color, religion, sex, national origin, age, political affiliation or belief, citizenship, or participation in JTPA.
- 34.5 Specific discriminatory actions prohibited on the ground of disability.
- 34.6 Communications with individuals with disabilities.
- 34.7 Employment practices.
- 34.8 Intimidation and retaliation prohibited.
- 34.9 Designation of responsible office; rulings and interpretations.
- 34.10 [Reserved]
- 34.11 Effect of other obligations or limitations.
- 34.12 Delegation and coordination.

Subpart B—Recordkeeping and Other Affirmative Obligations of Recipients

- 34.20 Assurance required; duration of obligation; covenants.
- 34.21 Equitable services.
- 34.22 Designation of Equal Opportunity Officer.
- 34.23 Dissemination of policy.
- 34.24 Data and information collection; confidentiality.

Subpart C—Governor's Responsibilities to Implement the Nondiscrimination and Equal Opportunity Requirements of JTPA

- 34.30 Application.
- 34.31 Recordkeeping.
- 34.32 Oversight and liability.
- 34.33 Methods of Administration.
- 34.34 Monitoring.

Subpart D—Compliance Procedures

- 34.40 Compliance reviews.
- 34.41 Notice to Show Cause.
- 34.42 Adoption of discrimination complaint processing procedures.
- 34.43 Complaints and investigations.
- 34.44 Corrective and remedial action.

- 34.45 Notice of violation; written assurances; Conciliation Agreements.
- 34.46 Final Determination.
- 34.47 Notice of finding of noncompliance.
- 34.48 Notification of Breach of Conciliation Agreement.

Subpart E—Federal Procedures for Effecting Compliance

- 34.50 General.
- 34.51 Hearings.
- 34.52 Decision and post-termination proceedings.
- 34.53 Suspension, termination, denial or discontinuance of Federal financial assistance under JTPA; alternate funds disbursement procedure.

AUTHORITY: 20 U.S.C. 1681; 29 U.S.C. 794, 1501, 1551, 1573, 1574, 1575, 1576, 1577, 1578, 1579; 42 U.S.C. 2000d et seq., 6101.

SOURCE: 58 FR 4750, Jan. 15, 1993, unless otherwise noted.

Subpart A—General Provisions

§ 34.1 Purpose; application.

(a) *Purpose.* The purpose of this part is to implement the nondiscrimination and equal opportunity provisions of the Job Training Partnership Act of 1982, as amended (JTPA), which are contained in section 167 of JTPA. Section 167 prohibits discrimination on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in JTPA. This part clarifies the application of the nondiscrimination and equal opportunity provisions of JTPA and provides uniform procedures for implementing them.

(b) *Application of this part.* This part applies to any recipient, as defined in § 34.2. This part also applies to the employment practices of a recipient, as provided in § 34.7.

(c) *Effect of this part on other obligations.*

(1) A recipient's compliance with this part shall satisfy any obligation of the recipient to comply with 29 CFR part 31, implementing title VI of the Civil Rights Act of 1964, as amended (title VI), and with subparts A, D and E of 29 CFR part 32, implementing section 504 of the Rehabilitation Act of 1973, as amended (section 504).

(2) However, compliance with this part shall not affect any obligation of